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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,800	03/31/2006	Christopher C. Broder	144004.01100	9160
51362	7590	09/20/2007	EXAMINER	
POWELL GOLDSTEIN LLP			BLUMEL, BENJAMIN P	
INTELLECTUAL PROPERTY GROUP			ART UNIT	
901 NEW YORK AVENUE, N.W.			PAPER NUMBER	
THIRD FLOOR			1648	
WASHINGTON, DC 20001			MAIL DATE	
			DELIVERY MODE	
			09/20/2007	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/528,800	<b>Applicant(s)</b> BRODER ET AL.	
	<b>Examiner</b> Benjamin P. Blumel	<b>Art Unit</b> 1648	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 23 March 2005.
- 2a)  This action is **FINAL**.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) \_\_\_\_\_ is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) 1-30 are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \*    c)  None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

*Election/Restrictions*

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-15, drawn to an isolated Henipavirus protein.

Group II, claim(s) 20-22, drawn to an isolated nucleic acid that can hybridize to a nucleic acid that encodes the protein of invention I.

Group III, claim(s) 16-19 and 23-26, drawn to method of inhibiting viral infection with an isolated viral protein.

Group IV, claim(s) 27-29, drawn to an aptamer for a viral protein.

Group V, claim(s) 30, drawn to a method of inhibiting viral infection with an aptamer.

The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The claims are directed to an isolated peptide of a heptad portion of a Henipavirus fusion protein, an aptamer for the fusion protein and methods of using both products. The inventions of Groups I-V lack an inventive step under PCT Article 33(3) as being obvious over Wang et al. (Microbes and

Art Unit: 1648

Infection, 2001). Wang et al. teach the genome of Hendra and Nipah viruses, which are Henipavirus. In addition, Wang et al. teach the individual viral proteins of these viruses. Therefore, the claimed invention is obvious in view of Wang et al. Invention II is drawn to an isolated nucleic acid that can hybridize to a nucleic acid that encodes the protein of invention I. However, not all nucleic acids that invention II will hybridize will encode the protein of invention I. In addition, the claimed inventions of groups I, III and groups IV, V are also drawn to distinct inventions since groups I and III involve an isolated peptide and groups IV and V involved a protein specific aptamer and therefore do not meet the requirement for unity of invention as required by PCT Rule 13.1. Lastly, no special technical feature exists for groups I-V as defined by PCT Rule 13.2, because it does not define a contribution over the prior art. Note that PCT Rule 13 does not provide for multiple products or methods within a single application. Because the technical feature of Groups I-V is not a special technical feature, unity of invention is lacking.

### *Summary*

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### *Conclusion*

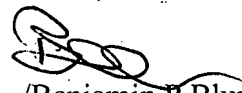
Art Unit: 1648

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin P. Blumel whose telephone number is 571-272-4960.

The examiner can normally be reached on M-F, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-1600. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
/Benjamin P Blumel/  
Examiner  
Art Unit 1648

/Bruce Campell/  
Supervisory Patent Examiner  
Art Unit 1648